IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY ,THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

I.A. Nos. 2 and 4 of 2019
In
C.A. NO. 402 OF 2005
IN
C.P.NO. 173 OF 2001

I.A. NO. 2 OF 2019

Between:

1. Sheikh Ameer, S/o Sri Sheik Hassan Sab, AGE 65 Years, Occ: Retired Employee Yedehalli, Anandapuram Sagar Taluk , Shimoga District , Karnataka
2. Nooruddin, S/o Sri Nasiroddin, Occ: Pvt. Employee, Yedehalli, Anandapuram Sagar Taluk, Shimoga District , Karnataka .. Petitioners /Respondents

(Petitioner No. 2 is not necessary party to this case)

And

M/s Monarch Finlease Limited (In Liqn.), rep. By the official Liquidator, High Court of Andhra Pradesh , Hyderabad .. Respondent / Petitioner

Petition Under Rule 9 of C.P.C. praying that this Hon'ble Court may be pleased to Set aside the order dated 11.08.2005 in C.A.No.402 of 2005 in C.P.No.173 of 2001 by permitting us to pay only the / decretal amount of Rs.17,990/- .

IA NO: 4 OF 2019

Between:

Sheikh Ameer, S/o Sri Sheik Hassan Sab, AGE 65 Years, Occ: Retired Employee Yedehalli, Anandapuram Sagar Taluk , Shimoga District , Karnataka .. Petitioner / Respondent No.1

And

1. M/s Monarch Finlease Limited (In Liqn.), rep. By the official Liquidator, High Court of Andhra Pradesh , Hyderabad .. Respondent /Applicant
2. Nooruddin, S/o Sri Nasiroddin, Occ: Pvt. Employee, Yedehalli, Anandapuram Sagar Taluk, Shimoga District , Karnataka .. Respondent /Respondent No.2

(Respondent No. 2 is not necessary party to this case)

Petition under Order 47 Rule 1 r/w. Section 114 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to review the order dated 11-08-2005 passed in Company Application No 402 of 2005 in CP.No. 173/2001 on the file of this Hon'ble High Court in the interest of justice.

Counsel for the Petitioners in both : M/s. G. SAMPADA

Counsel for the Respondent No.1 in both : SRI J. SREENADH REDDY , OFFICIAL LIQUIDATOR

The Court made the following: ORDER

These Applications are filed to set aside / review the order dated 11-08-2005 passed in C.A. No. 402 of 2005.

Heard learned counsel for the petitioner and learned counsel for respondent No. 1.

Considering the age of the petitioner and also considering the fact that there are no claims with respect to the Company in liquidation as on date , in the facts of the present case, the Applications are disposed of by modifying the conclusive portion of the order dated 11-08-2005 passed in C.A. No. 402 of 2005 as under:

" Accordingly, this application is allowed and a decree is passed directing first respondent herein to pay to the applicant a sum of Rs. 17,990/-, on or before 10-08-2021. In the event of the first respondent not complying with the same, he shall pay the said amount with interest at 12 % per annum from 16-07-2001 till the date of realization."

Sd/-M.SANTHI VARDHANI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Official Liquidator, M/s. Monarch Fin lease Limited (in Liqn.) Office at 1st Floor, Corporate Bhawan, Nagole, Bandlaguda, Thattiannaram Village, Hayathnagar Mandal, Ranga Reddy District Telangana State Pin Code-500 680.
2. The Registrar of Companies, Ministry of Corporate Affairs, Government of India, 2nd Floor, Corporate Bhawan, Nagole, Bandlaguda, Thattiannaram Village, Hayathangar Mandal, Ranga Reddy Dist, Telangana State Pin Code-500 680.
3. The Regional Director, South Eastern Region, Ministry of Corporate Affairs, 3rd Floor, Corporate Bhawan, Nagole, Bandlaguda, Thattiannaram Village, Hayathnagar Mandal, Ranga Reddy District, Telangana State Pin Code-500 680.
4. The Section Officer, OS Section, High Court for the State of Telangana at Hyderabad.
5. One cc to Sri J.Sreenadh Reddy, Counsel for Official Liquidator, High Court for the State of Telangana at Hyderabad.
6. One cc to M/s. G.Sampada, Advocate (OPUC)
7. Two CD Copies.
8. One Spate Copy
   (Along with a copy of the order dated 11/08/2005)

Kj.

HIGH COURT

DATED:23/07/2021

ORDER

I.A.Nos.2 and 4 of 2019
In
COMPA.No.402 of 2005
IN
C.P.NO. 173 OF 2001

Disposing of the applications.

04/08

(9)

THE HONOURABLE SRI JUSTICE N.V.RAMANA

COMPANY APPLICATION NO.402 OF 2005
IN
COMPANY PETITION NO.173 OF 2001

ORDER:

This application is filed under Section 446(1)(2) of the Companies Act, 1956 read with Rules 9 & 11 (b) of the Companies (Court) Rules, 1959 by the Official Liquidator representing the company in liquidation viz., M/s Monarch Finlease Limited., seeking a direction to the respondents jointly and severally to pay to the applicant herein a sum of Rs.17,990/- along with interest @ 15% p.a., from 16-7-2001 till the date of realisation.

By order dated 12-02-2002 made in C.P.No.173 of 2001, this Court appointed the Official Liquidator as provisional Liquidator of the company in liquidation and further directed to recover the amounts from various parties to whom the company in liquidation had lent the money.

As per the records of the company in liquidation, 1st respondent has obtained a loan of Rs.50,000/- for the hire purchase of "Bajaj Tempo Trax" and entered into an agreement agreeing to repay the amount together with finance charges of Rs.7,480/- aggregating to Rs.57,480/- payable in 12 monthly instalments @ Rs.4,790/- per month. The second respondent herein stood as guarantor for the same. As per the information contained in the ledger accounts and the statement of account made available by the Ex-Managing Director company, the first respondent has paid an amount of Rs.38,320/- and also paid a further sum of Rs.1,170/- towards part payment of 9th instalment and has to pay

a sum of Rs.17,990/- for the remaining instalments to the company which includes an amount of Rs.3,620/- less paid during the earlier instalments and the last payment was made on 16-7-2001. The 1st respondent has to pay an amount of Rs.17,990/- to the company. In spite of issuance of notice dated 30-10-2002, the respondents failed to pay the balance amount due so far. Hence, this application.

Notice sent to first respondent served and acknowledgment card also received. Notice sent to second respondent returned unserved with endorsement *"neither A.D.card nor return cover received"*. Learned Counsel for Official Liquidator sought permission to withdraw the claim made against the second respondent. Permission accorded and claim made against the second respondent is withdrawn. In spite of service neither first respondent appeared in person nor any representation made in his behalf. Hence, first respondent is set ex-parte and the matter is taken up for disposal ex parte based on the material available on record.

Heard the learned counsel for the Official Liquidator.

Today the Official Liquidator filed affidavit in lieu of chief examination and documents which were marked as Exs.A-1 to A-11. A perusal of the same would clearly reveal that the 1st respondent has entered into hire purchase agreement and obtained a loan for which the second respondent stood as guarantor and they have jointly executed hire purchase proposal form (Ex.A-2) and Hire Purchase Agreement (Ex.A-3). The 1st respondent having paid a sum of Rs.39,490/- failed to pay the remaining amount of Rs.17,990/- and in spite of issuing notice, the respondents did not pay the amount due. The above evidence adduced

on behalf of the applicant stood unrebutted. Thus, the material produced on record would establish that the respondents are liable to pay to the applicant a sum of Rs.17,990/- with interest at 12% per annum from 16-07-2001 till realization.

Accordingly, this application is allowed and a decree is passed directing first respondent herein to pay to the applicant a sum of Rs.17,990/- with interest at 12% per annum from 16-07-2001 till the date of realisation. No costs.

SD/-.BH.SADASIVA SARMA
JOINT REGISTRAR

//// TRUE COPY //

SECTION OFFICER

To

1. The Official Liquidator, M/s. Monarch Finlease Limited (In prov. Liqn.) High court of A.P. Hyderabad.
2. The Registrar of Companies, 3-5-398, C.P.W.D. Building, Kendriya Sadan, Syultan Bazar, Koti, Hyderabad.
3. The Official Liquidator, Kendriya Sadan, 3-5-398, C.P.W.D. Building, Sultan Bazar, Koti, Hyderabad.
4. One Cc to the Section Officer, O.S. Section, High Court of A.P. Hyderabad.
5. The Regional Director, Company Law board, Southern Region, Chennai.
6. 2. CD copies.

Ty MKH c.by.

14/9/05